

September 23, 2015

Greg Lovato
Deputy Administrator
Nevada Division of Environmental Protection
Bureau of Corrective Actions
Department of Conservation & Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701

Re: Operable Unit 8 Arimetco Facilities

Dear Greg:

SPS received and considered your August 26, 2015 correspondence which outlines NDEP's proposed path forward for handling the OU-8 Arimetco Facilities at the Anaconda Yerington Site in an effort to identify a long term solution for addressing the Arimetco Operable Unit (OU-8) other than the National Priorities List option. SPS agrees that a long term solution funded by private entities with the State is a better alternative to NPL. The SPS preferred alternative remains a mine-to-close project.

SPS believes that the majority of the community in Yerington and Lyon County are opposed to NPL as the solution to fund Site remedial efforts. SPS personnel live in the community and are concerned about the future of the community. SPS similarly realizes that listing the Site brings with it a significant financial burden to the State in addition to the stigma of a "CERCLA" site within Nevada. Nevada is the home of SPS's most important project and the well-being of the Community and the State is of great importance to SPS. Further, SPS recognizes that ARC too will face a more difficult burden in its remediation at Yerington should the Site be listed and should EPA remain the lead agency in directing ARC's remediation obligations. Conversely, a listing does not change SPS's plans nor does it alter to any significant degree the requirements or permits SPS seeks for its future mining operation. Additionally, SPS is not a responsible party for the Site as a whole or OU8 in particular.

Why then would SPS agree to participate in attempting to resolve the OU8 dilemma created by past mining activities? Simply put, SPS believes it is the right thing to do as a member of the community. Having so said, SPS also must be true to its obligations as a public company and ensure that when it engages in activities which it is not legally bound to do that



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the engagement is thoughtful, financially prudent and without incurring liability otherwise not attendant to SPS's activities.

SPS understands that the State, ARC and the community seek a long term solution to the Site and OU8. You have expressed a desire to bring more certainty and greater structure to the plans for the Site. NDEP and EPA have expressed concern that the OU-8 fluid management system as currently operated will be at capacity as early as 2019. EPA proffers the listing option as the only solution to funding the orphan liability of OU8. SPS believes that the approach outlined in your August letter provides a viable alternative to listing. There is, of course, another alternative we have discussed as "mine-to-close", though that alternative is not yet fully formed. More time is needed to complete the activities on which a decision to implement mine-to-close can be made. When SPS purchased the Site in 2011, SPS fully believed such a decision could be at hand within about five years. In making that prediction, SPS could not have predicted the extreme financial pressures the mining industry would endure in the following years. Despite those pressures SPS remains committed to Yerington, restructured its portfolio and negotiated an agreement to bring significant additional resources to the project. In addition, during these past four years SPS has invested some \$30 million at Yerington both in its mining project and in assisting EPA, the State and ARCO move the Site toward greater stability and clean up. This includes approximately \$750,000 on upgrades to OU8 to extend the life of the fluid management system and providing property for the most recent FMS pond construction at no cost to EPA, ARC or the State.

Since SPS acquired the site in 2011, we have strived to work collaboratively with ARC on numerous issues related to ARC's cleanup activities at the site. Some examples include granting easements and the possible use of borrow soils for reclamation of the site as well as placement of waste management units on SPS property. However, SPS needs to understand how these issues could impact the potential re-mining of the site before granting ARC's requests. We remain committed to listen to ARC's requests and to work collaboratively in the future in support of ARC's obligations at the site.

As explained during our previous conversations and outlined in our June 2015 letter to you, SPS believes that the proven technologies around enhanced evaporation could resolve the capacity concerns, allow adequate time for a mine-to-close decision to be made as an alternative to the currently proposed \$30 million heap capping project and prevent the site from being listed on the NPL with the attendant stigma absent any guarantee of funding needed to accomplish the State's goals. Rather than re-iterate all of the concerns SPS has regarding the proposed closure plan and the NPL alternative, SPS refers NDEP to SPS's June 2015 letter for those details.

In direct response to NDEP's August correspondence, SPS remains willing to fund and operate an enhanced evaporation pilot project upon satisfaction of the concerns and conditions outlined in SPS's June 2015 letter. Timing is important to the success of the pilot. The ideal time to test such an evaporation system is April through September of any given year.



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Agreements resolving the concerns SPS outlined in June as well as the details regarding participation of each party would need to be in place by late winter 2016 to allow sufficient time for SPS to implement a pilot test by the 2016 evaporation season. Given the amount of work necessary to consummate such agreements, SPS may be willing to proceed with preparation of a pilot test work plan before such agreements are finalized. As we discussed more recently, to do the pilot test field work, SPS would need written agreements and covenants that by extending itself in this way SPS will incur no liability for OU8 or indeed the rest of the Site, which liability SPS does not have today. Specifically, in advance of SPS expending time, effort and money to perform the pilot test, SPS will need sufficient covenants from the State and EPA regarding currently existing liabilities, including that for OU8 and contribution/cost recovery protection. SPS's concerns and requirements for participation are outlined in its June letter.

As to the remainder of the State's proposal in the August letter, SPS is willing to engage in the conversation lead by the State seeking an appropriate set of contributions from the involved parties as well as an appropriate set of agreements documenting the various parties commitments to one another and to the Site. At this time SPS welcomes the opportunity to meet and discuss the specifics of the State's proposal to better understand the cost, timing of funding and protections available to SPS should it agree to assist in resolving the longer term OU8 situation as proposed by the State.

As previously discussed, SPS does not believe that NPL listing is the best answer to the issue of OU8. SPS believes the site may not qualify for funding and thus a listing will serve only to add stigma, expense and regulatory hurdles without providing a benefit to the State or the community. While SPS understands the concerns regarding fluid management at the site, SPS remains committed to the alternative of enhanced evaporation as the most cost-effective, appropriate alternative to manage the on-site challenges while leaving open the possibility for a site-wide remediation achieved through mine-to-close. We remain committed to exploring solutions to that are not only in the best interests of all stakeholders, but that are also real and achievable.

Sincerely,

Steven Dischler
Singatse Peak Services

cc: SPS – Tom Patton, Taurus Massey, Carla Consoli (LR&R)
EPA - Dave Setter, Dante Rodriguez, Harold Ball, Angeles Herrera, Andrew Helmlinger
NDEP - Jeff Collins, Jeryl Gardner, Jasmine Mehta, David Emme
Atlantic Richfield - Brian Johnson, Jack Oman, Ron Halsey, Patricia Gallery, Jim Lucari
Freeport Nevada - Stuart Brown, Bruce Goff